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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,836	11/13/2003	Mark R. Gordon	CHA920030026US1	9524
23550 7590 01/17/2007 HOFFMAN WARNICK & D'ALESSANDRO, LLC 75 STATE STREET 14TH FLOOR ALBANY, NY 12207			EXAMINER BELL, CORY C	
			ART UNIT 2164	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			01/17/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/712,836

Applicant(s)

GORDON, MARK R.

Examiner

Cory C. Bell

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 01 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
**SAM RIMELL**  
**PRIMARY EXAMINER**

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-4, 6-13, 14-22, and 23-26 have been examined.

***Response to Arguments***

2. Applicant's arguments with respect to the rejection of the claims under 35 USC 112 have been considered and the corresponding rejections have been withdrawn in light of the amendment.

3. Applicant's arguments with respect to 35 USC 101 have been considered. The rejection of claims 10-18 has been withdrawn in light of the amendment. However, as claim 19 was not amended as argued the applicant's argument is not persuasive. Second, Claims 1-9 remain rejected because, although the table are output they still do not require a tangible result to the user. For example, they could simply be broadcast on a carrier wave.

4. Applicant's arguments with respect to 35 USC 103 are not persuasive. Applicant incorrectly asserts that Brickell fails to teach a performance measure that is a combination of time saved and a summary table size. This feature is shown in the passage cited in the previous office action as the performance measure is generated by retrieving the actual time saved, if the summary is already in use, or else the measure is generated using an estimate of the time saved calculated by the summary table size. Using one or the other is a combination using the broadest reasonable interpretation and thus the rejection stands.

***Claim Rejections - 35 USC § 101***

Art Unit: 2164

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-4, 6-9, 19-22, and 23-26 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility. The mere calculation of a performance measure is not useful, as information is not displayed to user or used to provide any function.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3, 6-13, 14-22, and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,385,604, known hereafter as Bakalash, or the admitted prior art in view of US 6,678,676 known hereafter as Brickell.

8. **Claims 1 and 10** are rejected for the following reasons:

Bakalash teaches summary tables for use in an OLAP database system in col 6, as does applicants admitted prior art in paragraphs 2-4 of the instant application. However, neither disclose proposing summary tables and calculating performance measures, but these features are taught in Brickell. Col 3 lines 16-37 teaches calculating an estimate the query execution time witch is a performance measure based on inputted queries, and a query analysis system generating the selected summaries, based on the data from the database i.e. the estimated query

Art Unit: 2164

processing time calculated based on the inputted queries. Thus, it would have been obvious to one of ordinary skill in the art at the time of the art to include the features of Brickel in Bakalash as it provides an automatic process that does not require substantial input from the system user or system administrator for maintaining summery tables(Brickel col 3 line 59 – col 4 line 4).

Bakalash and The admitted prior art as modified teaches the claims upon which these claims are dependant, however they fail to expressly disclose the performance measure based on an estimated amount of time saved and summary table size. However, this is taught in Brickel col 3 lines 16-24. Thus, it would have been obvious to one of ordinary skill in the art at the time of the art to include the features of Brickel in Bakalash as it provides an automatic process that does not require substantial input from the system user or system administrator for maintaining summery tables(Brickel col 3 line 59 – col 4 line 4).

Bakalash and The admitted prior art as modified teaches the claims upon which these claims are dependant, however they fail to expressly disclose the performance measure based on an estimated amount of time saved and summary table size. However, this is taught in Brickel col 3 lines 16-24. Thus, it would have been obvious to one of ordinary skill in the art at the time of the art to include the features of Brickel in Bakalash as it provides an automatic process that does not require substantial input from the system user or system administrator for maintaining summery tables(Brickel col 3 line 59 – col 4 line 4).

9. **Claims 2, 11, and 20** are rejected for the following reasons:

Bakalash and The admitted prior art as modified teaches the claims upon which these claims are dependant, however they fail to expressly disclose the set of summery tables being determined based on characteristics utilized in the summary table. However, this is taught in Brickel col 6

Art Unit: 2164

line 16-46. Thus, it would have been obvious to one of ordinary skill in the art at the time of the art to include the features of Brickel in Bakalash as it provides an automatic process that does not require substantial input from the system user or system administrator for maintaining summery tables(Brickel col 3 lines 59 – col 4 line 4).

10. **Claims 3, 12, and 21** are rejected for the following reasons:

Bakalash and The admitted prior art as modified teaches the claims upon which these claims are dependant, however they fail to expressly disclose the performance measure comprising an estimated amount of time saved for using the summary table. However, this is taught in Brickel col 3 line 21-24. Thus, it would have been obvious to one of ordinary skill in the art at the time of the art to include the features of Brickel in Bakalash as it provides an automatic process that does not require substantial input from the system user or system administrator for maintaining summery tables(Brickel col 3 line 59 – col 4 line 4).

11. **Claims 14, and 19** are rejected for the following reasons:

Bakalash and The admitted prior art as modified teaches the claims upon which claims 5 and 14 are dependant, as well as the limitations of claim 19 except they fail to expressly disclose the performance measure based on performance data of characteristics relating to the summary table and performance data for any subsets of characteristics relating to the summery table. However, this is taught in Brickel col 8 lines 35-44 shows a performance measure based on the number of rows reduced to over the number of rows for the table/tables being represented, and the number of rows is performance data as it is analogous to how long it takes to parse a table. Thus, it would have been obvious to one of ordinary skill in the art at the time of the art to include the

Art Unit: 2164

features of Brickel in Bakalash as it provides an automatic process that does not require substantial input from the system user or system administrator for maintaining summery tables(Brickel col 3 line 59 – col 4 line 4).

Bakalash and The admitted prior art also fail to expressly disclose the performance measure based on an estimated amount of time saved and summary table size calculated by analyzing performance data of characteristics relating to each proposed summary table and performance data of subsets of characteristics relating to each proposed summary table. However, this is taught in Brickel col 3 lines 10-24 and col 2 lines 28-34. Col 2 lines 28-34 teach calculating a performance measure for each proposed summary, time saved and summary table size both being characteristics relating to the summary and a subset of characteristics. Thus, it would have been obvious to one of ordinary skill in the art at the time of the art to include the features of Brickel in Bakalash as it provides an automatic process that does not require substantial input from the system user or system administrator for maintaining summery tables(Brickel col 3 line 59 – col 4 line 4).

12. **Claims 6, 15, and 23** are rejected for the following reasons:

Bakalash and The admitted prior art as modified teaches the claims upon which these claims are dependant, however they fail to expressly disclose the performance measure being normalized for summary tables based on different fact tables. However, this is taught in Brickel col 8 lines 35-44 shows a performance measure based on the number of rows reduced to over the number of rows for the table/tables being represented, and the number of rows is performance data as it is analogous to how long it takes to parse a table, this is a normalized figure and summary tables are based on different tables. Thus, it would have been obvious to one of ordinary skill in the art

Art Unit: 2164

at the time of the art to include the features of Brickel in Bakalash as it provides an automatic process that does not require substantial input from the system user or system administrator for maintaining summery tables(Brickel col 3 line 59 – col 4 line 4).

13. **Claims 7, 16, and 24** are rejected for the following reasons:

Bakalash and The admitted prior art as modified teaches the claims upon which these claims are dependant, however they fail to expressly disclose a performance analysis system the determines an actual performance analysis system that determines an actual performance value of a given summary table using feedback from the database system. However, this is taught in Brickel col 2 line 62- col 3 line 15. Thus, it would have been obvious to one of ordinary skill in the art at the time of the art to include the features of Brickel in Bakalash as it provides an automatic process that does not require substantial input from the system user or system administrator for maintaining summery tables(Brickel col 3 line 59 – col 4 line 4).

14. **Claims 8, 17, and 25** are rejected for the following reasons:

Bakalash and The admitted prior art as modified teaches the claims upon which these claims are dependant, however they fail to expressly disclose a comparing statistics fro queries using identical characteristics that are preformed before and after creation of the summery table.

However, this is taught in Brickel col 2 line 62- col 3 line 15, which compares the same query performed with and without the summary table present. Thus, it would have been obvious to one of ordinary skill in the art at the time of the art to include the features of Brickel in Bakalash as it provides an automatic process that does not require substantial input from the system user or system administrator for maintaining summery tables(Brickel col 3 line 59 – col 4 line 4).

15. **Claims 9, 18, and 26** are rejected for the following reasons:



Art Unit: 2164

Bakalash and The admitted prior art as modified teaches the claims upon which these claims are dependant, however they fail to expressly disclose deleting low performing summary tables.

However, this is taught in Brickel col 4 lines 5-10 or Col 7 lines 5-10. Thus, it would have been obvious to one of ordinary skill in the art at the time of the art to include the features of Brickel in Bakalash as it provides an automatic process that does not require substantial input from the system user or system administrator for maintaining summery tables(Brickel col 3 line 59 – col 4 line 4).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,385,604, known hereafter as Bakalash, or the admitted prior art in view of US 6,678,676 known hereafter as Brickell in further view of US 6317778, known hereafter as Dias.

16. **Claim 4** is rejected for the following reasons:

Bakalash and Brickell teach the claims upon which claim 4 is dependent upon, but fail to expressly disclose the multiplication of the time saved and the summary table size. Using a performance measure that is a multiplication of size and time saved is taught in Dias Col 5 lines 32-46. Division is a type of multiplication (ie multiplication by an inverse). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to include this feature to normalize the time saved by the size as they both effect the performance of the system and thus they measure would be more accurate.

### *Conclusion*

Art Unit: 2164

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cory C. Bell whose telephone number is (571) 272 2736. The examiner can normally be reached on m-f 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272 4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2164

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
SAM RIMELL  
PRIMARY EXAMINER